

## **Assembly Bill No. 2661**

### **CHAPTER 643**

An act to amend Section 1536 of, and to add Sections 1506.7, 1506.8, and 1506.9 to, the Health and Safety Code, relating to foster care.

[Approved by Governor September 21, 2004. Filed  
with Secretary of State September 21, 2004.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2661, Steinberg. Foster care.

Under existing law, the California Community Care Facilities Act, the State Department of Social Services regulates the licensure and operation of community care facilities, including foster family agencies. Existing law defines a foster family agency as an organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Under existing law, a certified family home is a family residence that is certified by a licensed foster family agency and issued a certificate of approval by the agency as meeting departmental licensing standards, and used only by that foster family agency for placements. Existing law also authorizes the department to require a foster family agency to deny or revoke a certified family home's certificate of approval, based on an inspection of the home and a subsequent finding by the department of noncompliance with licensing requirements.

A violation of the California Community Care Facilities Act is a misdemeanor.

Existing law prohibits, with certain exceptions, the disclosure of personal information of facilities licensed as foster family homes and certified family homes of foster family agencies that provide 24-hour care for 6 or fewer children. Existing regulations require a foster family agency to provide the department with a log of family homes certified and decertified each month, including whether a decertification was necessitated by any one of several listed factors.

This bill would require the owner or operator of a family home applying for certification to sign an application that includes a declaration as to the truth of the information submitted, containing certain information, including the applicant's certification and decertification status and history. Because the bill would provide that

making a false statement under these circumstances is a misdemeanor, this bill would impose a state-mandated local program.

This bill would require a foster family agency to contact any foster family agencies by whom an applicant has been previously certified and any state or county licensing offices that have licensed the applicant as a foster parent and conduct a reference check as to the applicant. By expanding the definition of an existing crime, the bill would impose a state-mandated local program. The bill also would prohibit a person from incurring civil liability as a result of providing information to the department as required by the bill, and would prohibit the department, a foster family agency, or county from incurring civil liability for providing a county or a foster family agency with certain information.

This bill would authorize the department, a county, or a foster family agency to request information from, or divulge information to, the department, a county, or a foster family agency regarding a prospective certified parent, foster parent, or relative caregiver, for the purpose of conducting a reference check to determine whether it is safe and appropriate to license, certify, or approve an applicant to be a certified parent, foster parent, or relative caregiver. The bill would authorize the department to issue a citation and assess a civil penalty of \$50 per day for each instance of a foster family agency's failure to provide the department with the required information.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Foster family agencies are authorized to certify or to decertify family homes that provide foster care to children who have been declared dependents of the court and removed from their homes.

(2) Foster family agencies are required by regulation to provide to the State Department of Social Services a monthly list of family homes that have been certified or decertified. In some cases, a foster family agency is required by regulation to notify the department within one business day of determining that it is necessary to decertify a certified family home for specified reasons. However, the department does not have a database for this information. Thus, if a family home has lost its



certification by a foster family agency or, if the foster family agency has had a problem with the foster family home as a result of a violation of some type, it is difficult for other foster family agencies and counties to access this information. Thus, no one except for the department, the foster family agency that decertified the family home, and the adult who was decertified has a record of the decertification. In addition, statutory provisions establish certain privacy rights for foster families, and many foster family agencies, counties, and the department are therefore reluctant to share information regarding foster families. Thus, a foster family agency that is considering certifying the family home, or a county that is considering licensing the home as a foster home or approving a home for relative placement cannot access the information of the family home's decertification.

(3) Consequently, adults who lose their certification as family homes can go to another foster family agency and become certified, or become licensed as a foster care provider or approved for a relative placement by the county, despite abuse or neglect of foster children in the care of that family home that was severe enough for that family home to lose its certification.

(4) This lack of coordination and sharing of information has resulted in abuse or neglect of foster children—abuse and neglect from which these children could and should have been protected.

(5) In its August 2003 report, the Bureau of State Audits cited this lack of coordination and sharing of information as a problem that has resulted in abusive or neglectful family homes being able to be certified by another foster family agency that is unaware of the abuse or neglect.

(b) In order to protect foster children from being placed with potentially harmful, unsafe, or neglectful caregivers, and in order to protect foster children who have been placed in the care of the state, it is the intent of the Legislature to enact legislation to ensure that both the counties that license foster homes and approve relative placements and foster family agencies that certify family homes are given access to information of family homes that have been certified or decertified, and information that a foster family agency has determined that it is necessary to decertify a certified family home as a result of specified actions by a certified foster parent. It is the intent of the Legislature to enact provisions that will give foster family agencies, counties, and the department protections from civil liability so that they may share information regarding prospective foster parents.

SEC. 2. Section 1506.7 is added to the Health and Safety Code, to read:

1506.7. (a) A foster family agency shall require the owner or operator of a family home applying for certification to sign an



application that shall contain, but shall not be limited to, the following information:

(1) Whether the applicant has been certified, and by which foster family agency.

(2) Whether the applicant has been decertified, and by which foster family agency.

(3) Whether a placement hold has been placed on the applicant by a foster family agency, and by which foster family agency.

(4) Whether the applicant has been a foster home licensed by a county or by the state and, if so, by which county or state, or whether the applicant has been approved for relative placement by a county and, if so, by which county.

(b) (1) The application form signed by the owner or operator of the family home applying for certification shall contain notice to the applicant for certification that the foster family agency is required to check references of all foster family agencies that have previously certified the applicant and of all state or county licensing offices that have licensed the applicant as a foster parent, and that the signing of the application constitutes the authorization of the applicant for the foster family agency to conduct its check of references.

(2) The application form signed by the owner or operator of the family home applying for certification shall be signed with a declaration by the applicant that the information submitted is true, correct, and contains no material omissions of fact to the best knowledge and belief of the applicant. Any person who declares as true any material matter pursuant to this section that he or she knows to be false is guilty of a misdemeanor. The application shall include a statement that submitting false information is a violation of law punishable by incarceration, a fine, or both incarceration and a fine.

SEC. 3. Section 1506.8 is added to the Health and Safety Code, to read:

1506.8. Before certifying a family home, a foster family agency shall contact any foster family agencies by whom an applicant has been previously certified and any state or county licensing offices that have licensed the applicant as a foster parent, and shall conduct a reference check as to the applicant.

SEC. 4. Section 1506.9 is added to the Health and Safety Code, to read:

1506.9. (a) No person shall incur civil liability as a result of providing the department with any of the following:

(1) The foster family agency providing to the department a log of family homes certified and decertified.



(2) The foster family agency notifying the department of its determination to decertify a certified family home due to any of the following actions by the certified family parent:

- (A) Violating licensing rules and regulations.
- (B) Aiding, abetting, or permitting the violation of licensing rules and regulations.
- (C) Conducting oneself in a way that is inimical to the health, morals, welfare, or safety of a child placed in that certified family home.
- (D) Being convicted of a crime while a certified family parent.
- (E) Knowingly allowing any child to have illegal drugs or alcohol.
- (F) Committing an act of child abuse or neglect or an act of violence against another person.

(b) Neither the department, a foster family agency, or a county shall incur civil liability for providing a county or a foster family agency with information if the communication is for the purpose of aiding in the evaluation of an application for certification of a family home by a foster family agency or for licensure as a foster home or approval of a relative placement by a county or by the department.

SEC. 5. Section 1536 of the Health and Safety Code is amended to read:

1536. (a) At least annually, the director shall publish and make available to interested persons a list or lists covering all licensed community care facilities, other than foster family homes and certified family homes of foster family agencies providing 24-hour care for six or fewer foster children, and the services for which each facility has been licensed or issued a special permit.

(b) Subject to subdivision (c), to encourage the recruitment of foster family homes and certified family homes of foster family agencies, protect their personal privacy, and to preserve the security and confidentiality of the placements in the homes, the names, addresses, and other identifying information of facilities licensed as foster family homes and certified family homes of foster family agencies providing 24-hour care for six or fewer children shall be considered personal information for purposes of the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). This information shall not be disclosed by any state or local agency pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) except as necessary for administering the licensing program, facilitating the placement of children in these facilities, and providing names and addresses only to bona fide professional foster parent organizations upon request.



(c) Notwithstanding subdivision (b), the department, a county, or a foster family agency may request information from, or divulge information to, the department, a county, or a foster family agency, regarding a prospective certified parent, foster parent, or relative caregiver for the purpose of, and as necessary to, conduct a reference check to determine whether it is safe and appropriate to license, certify, or approve an applicant to be a certified parent, foster parent, or relative caregiver.

(d) The department may issue a citation and, after the issuance of that citation, may assess a civil penalty of fifty dollars (\$50) per day for each instance of a foster family agency's failure to provide the department with the information required by subdivision (h) of Section 88061 of Title 22 of the California Code of Regulations.

(e) The Legislature encourages the department, when funds are available for this purpose, to develop a database that would include all of the following information:

(1) Monthly reports by a foster family agency regarding family homes.

(2) A log of family homes certified and decertified, provided by a foster family agency to the department.

(3) Notification by a foster family agency to the department informing the department of a foster family agency's determination to decertify a certified family home due to any of the following actions by the certified family parent:

(A) Violating licensing rules and regulations.

(B) Aiding, abetting, or permitting the violation of licensing rules and regulations.

(C) Conducting oneself in a way that is inimical to the health, morals, welfare, or safety of a child placed in that certified family home.

(D) Being convicted of a crime while a certified family parent.

(E) Knowingly allowing any child to have illegal drugs or alcohol.

(F) Committing an act of child abuse or neglect or an act of violence against another person.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

